

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:
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**PCT**

Translation

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

		Date of mailing (day/month/year)
Applicant's or agent's file reference <b>sh 14/WO M</b>		FOR FURTHER ACTION See paragraph 2 below
International application No. <b>PCT/DE2004/001050</b>	International filing date (day/month/year) <b>14.05.2004</b>	Priority date (day/month/year) <b>14.05.2003</b>
International Patent Classification (IPC) or both national classification and IPC		
Applicant <b>SCHMIDT &amp; HAENSCH GMBH &amp; CO.</b>		

<p>1. This opinion contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Box No. I Basis of the opinion</li> <li><input checked="" type="checkbox"/> Box No. II Priority</li> <li><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li><input type="checkbox"/> Box No. IV Lack of unity of invention</li> <li><input checked="" type="checkbox"/> Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li><input type="checkbox"/> Box No. VI Certain documents cited</li> <li><input type="checkbox"/> Box No. VII Certain defects in the international application</li> <li><input type="checkbox"/> Box No. VIII Certain observations on the international application</li> </ul> <p>2. <b>FURTHER ACTION</b></p> <p>If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.</p> <p>If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.</p> <p>For further options, see Form PCT/ISA/220.</p> <p>3. For further details, see notes to Form PCT/ISA/220.</p>
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Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I	Basis of this opinion
1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item. <input type="checkbox"/> This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).	
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of: <ul style="list-style-type: none"><li>a. type of material<ul style="list-style-type: none"><li><input type="checkbox"/> a sequence listing</li><li><input type="checkbox"/> table(s) related to the sequence listing</li></ul></li><li>b. format of material<ul style="list-style-type: none"><li><input type="checkbox"/> in written format</li><li><input type="checkbox"/> in computer readable form</li></ul></li><li>c. time of filing/furnishing<ul style="list-style-type: none"><li><input type="checkbox"/> contained in the international application as filed.</li><li><input type="checkbox"/> filed together with the international application in computer readable form.</li><li><input type="checkbox"/> furnished subsequently to this Authority for the purposes of search.</li></ul></li></ul>	
3. <input type="checkbox"/> In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.	
4. Additional comments:	

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Box No. II Priority

1.  The following document has not yet been furnished:
  - copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
  - translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2.  This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

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<b>Box No. V</b>		<b>Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</b>																									
<p><b>1. Statement</b></p> <table> <tr> <td align="center">Novelty (N)</td> <td align="center">Claims</td> <td><u>2-13</u></td> <td align="center">YES</td> </tr> <tr> <td></td> <td align="center">Claims</td> <td><u>1</u></td> <td align="center">NO</td> </tr> <tr> <td align="center">Inventive step (IS)</td> <td align="center">Claims</td> <td></td> <td align="center">YES</td> </tr> <tr> <td></td> <td align="center">Claims</td> <td><u>1-13</u></td> <td align="center">NO</td> </tr> <tr> <td align="center">Industrial applicability (IA)</td> <td align="center">Claims</td> <td><u>1-13</u></td> <td align="center">YES</td> </tr> <tr> <td></td> <td align="center">Claims</td> <td></td> <td align="center">NO</td> </tr> </table> <p><b>2. Citations and explanations:</b></p> <p>1. This report mentions the following documents (D) cited in the search report; the same numbering will be used throughout the procedure:</p> <p style="margin-left: 40px;">D1: US-A-5 309 214      D2: EP-A-0 283 426      D3: EP-A-1 096 247      D4: FR-A-2 578 978</p> <p>2. INDEPENDENT CLAIM 1</p> <p>The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel under PCT Article 33(2). Document D1 discloses (the references in parentheses relate to said document) all of the features corresponding to claim 1, for example the following:</p> <p style="margin-left: 40px;">a refractometer comprising measuring vee 12; sample 13 can be illuminated such that the range even includes the critical angle of total reflection (column 5, lines 55, 56); a plurality of discrete light sources 1, 2 that can be activated either</p>				Novelty (N)	Claims	<u>2-13</u>	YES		Claims	<u>1</u>	NO	Inventive step (IS)	Claims		YES		Claims	<u>1-13</u>	NO	Industrial applicability (IA)	Claims	<u>1-13</u>	YES		Claims		NO
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Box No. V	<p>Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>individually (column 7, lines 46, 47) or jointly (column 5, lines 67, 68), their radiation 10 being bundled in one point 11 and guided onto the refractometer.</p> <p>3. Dependent claims 2-13 concern only minor structural modifications to the apparatus according to claim 1 of the kind that a person skilled in the art routinely makes on the basis of familiar considerations (cf. also the documents cited in the search report), especially since the resulting advantages are readily foreseeable. These claims therefore do not contain any features which, in combination with the features of any claim to which they refer back, meet the PCT requirements for novelty or inventive step.</p>
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